

Remarks

Support for the amendments to claims 1, 7, and 8 can be found throughout the specification. Support for new claims 30 through 38 can be found in the previous claims, and throughout the specification.

The restriction requirement contends that the present application is directed to a "plurality of . . . patentably distinct species" as typified by original claim 1. However, the agents listed in the Markush group of claim 1 are all generically anti-diabetic agents, and in the context of the present application are not patentably distinct. The action of each of these agents can be rendered more effective, at lower dosages, when administered in conjunction with an insulin sensitizer of the current invention.

Applicant has therefore amended the generic claims 1 and 8 to state that the insulin sensitizer of the invention is administered with an anti-diabetic agent. The original Markush group listing such anti-diabetic agents has been re-iterated in new dependent claims 30 and 31. This amendment renders moot the reason for the restriction.

Further, MPEP § 803.02 requires, in the instance of a restriction requirement concerning a Markush claim, that the Markush-type claim be examined fully with respect to any elected species, and that if the elected species is patentable, that the search of the Markush-type claim be subsequently extended to the other members of the Markush-group. With this in mind, Applicant provisionally elects insulin, one of the described anti-diabetic agents.

Applicant respectfully submits that if the restriction requirement is maintained, that restriction not be required between orally ingestible and injectible insulin; ingested insulin and injected insulin are chemically identical and act in the body in the same manner. As such, Applicant elects insulin as a class, including both injected and orally ingested insulin. However, if restriction between the modes of insulin administration is required, injected insulin would be elected. If insulin is found to be patentable, Applicant requests that the Examiner extend the search to the remaining

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members of the Markush group, *i.e.*, sulfonylureas, biguanides, and alpha-glucosidase inhibitors, as required by MPEP §803.02.

In light of the above amendments, and for the reasons stated above, Applicant requests that the restriction requirement be withdrawn. Examiner Weddington is invited to call the undersigned if any questions remain concerning the requirement for restriction. Otherwise, the present application is ready for substantive examination, and such action is requested.

Respectfully submitted,

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